

1 GEORGE J. TICHY, II, Bar No. 041146  
MICHELLE R. BARRETT, Bar No. 197280  
2 KIMBERLY L. OWENS, Bar No. 233185  
JUSTIN T. CURLEY, Bar No. 233287  
3 LITTLER MENDELSON  
A Professional Corporation  
4 650 California Street, 20th Floor  
San Francisco, CA 94108.2693  
5 Telephone: 415.433.1940  
Facsimile: 415.399.8490  
6 E-mail: gtichy@littler.com, mbarrett@littler.com,  
kowens@littler.com, jcurley@littler.com  
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8 Attorneys for Defendants  
HSBC MORTGAGE CORPORATION (USA) AND  
9 HSBC BANK USA, N.A.

10 UNITED STATES DISTRICT COURT  
11 NORTHERN DISTRICT OF CALIFORNIA  
12 SAN FRANCISCO DIVISION

13 Philip Wong, Frederic Chaussy, and Leslie  
Marie Shearn, individually, on behalf of all  
14 others similarly situated, and on behalf of  
the general public,

15 Plaintiffs,

16 v.

17 HSBC Mortgage Corporation (USA);  
18 HSBC Bank USA, N.A.; and DOES 1  
through 50, inclusive,

19 Defendants.  
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Case No. C 07 2446 MMC [ECF]

**DECLARATION OF DAVID GATES IN  
SUPPORT OF DEFENDANTS'  
OPPOSITION TO PLAINTIFFS' MOTION  
FOR CONDITIONAL CERTIFICATION,  
PRODUCTION OF UPDATED CLASS  
LIST, AND PARTIAL SUMMARY  
JUDGMENT**

Date: February 8, 2008  
Time: 9:00 a.m.  
Courtroom: 7 (19th Floor)  
Judge: Hon. Maxine M. Chesney

Complaint Filed: June 29, 2007 (Amended)  
Trial Date: Not Yet Set

1 I, David Gates, hereby declare and state:

2 1. I have personal knowledge of the facts set forth below. If called as a witness,  
3 I could and would testify to the following.

4 2. I am employed by HSBC Mortgage Corporation (USA) (hereinafter  
5 "HMCU") as "Senior Vice President—National Sales and Marketing." My employer's name—  
6 "HSBC Mortgage Corporation (USA)"—appears on my work-related documents, including my  
7 business cards.

8 3. In 1997, I worked for a company called Marine Midland Bank, which was  
9 owned by an HSBC company. In or about 2000, Marine Midland Bank rebranded and became  
10 known as HSBC Mortgage Corporation (USA).

11 4. Since May 7, 2004, HMCU has employed approximately four hundred  
12 seventy-five (475) people in the Senior Retail Mortgage Lending Consultant, Retail Mortgage  
13 Lending Consultant or Premier Mortgage Sales Officer positions.

14 5. HMCU currently employs approximately two hundred sixty (260) people in  
15 the Senior Retail Mortgage Lending Consultant, Retail Mortgage Lending Consultant or Premier  
16 Mortgage Sales Officer positions (generally called "loan officers"). These "loan officers" work in  
17 California, Connecticut, Delaware, Florida, New Jersey, New York, Pennsylvania, and the District  
18 of Columbia.

19 6. Of the approximate, current 260 "loan officers," approximately only ten (10)  
20 are employed in California. In fact, since 2004, HMCU has employed only an approximate total of  
21 thirty-three (33) "loan officers" in California.

22 7. Historically, neither HBUS nor HMCU has had a very big or strong presence  
23 in California. It was only in 2005 that HBUS and HMCU began to work on increasing their  
24 presence and recognition in California. By comparison, HBUS and HMCU have had very strong  
25 and visible presences in New York for at least ten (10) years. Given the fact that HBUS and HMCU  
26 are more well known in the Eastern states, it would be fair and accurate to say that "loan officers"  
27 working in California have had very different experiences in working for HMCU and developing  
28 their business and prospective client base. Thus, the experiences of "loan officers" in California

1 cannot be seen as typical or similar to loan officers working in other states. I base this statement  
 2 upon the fact that I talk to divisional and regional managers who head up the divisions or regions of  
 3 HMCU across the country who have told me what their business market is like. I also base this  
 4 statement upon the fact that I have talked to "loan officers" across the country about their business  
 5 market and experiences.

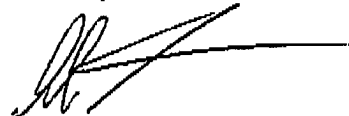
6 8. The way in which "loan officers" perform their job duties is not the same. For  
 7 example, when using the LoanQuest software provided by HMCU, some "loan officers" use the  
 8 software in the client's presence to fill out required paperwork. Others choose to write down  
 9 information received from the client and then complete the required paperwork on LoanQuest later.  
 10 The result is that some "loan officers" may spend more time doing more administrative duties than  
 11 others.

12 9. Any office space maintained or used by HMCU is considered to be only a  
 13 "touchdown" space for "loan officers" to briefly stop by if they need to meet a client, attend a  
 14 meeting, make a few calls or do some paperwork. HMCU does not intend, nor does it permit, that  
 15 "loan officers" to spend all of their work days in this office space.

16 10. HBUS provides only general oversight of HMCU's financial management.

17 I declare under penalty of perjury under the laws of the States of California and New  
 18 York and the United States of America that the foregoing declaration is true and correct to the best  
 19 of my personal knowledge.

20 Executed this 18<sup>th</sup> day of January, 2008, in Depew, New York.

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22  
 23 DAVID GATES

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